

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

United States of America,
Plaintiff/Respondent
v.
Darnell Maurice Smith,
Defendant/Petitioner

2:14-cr-00012-JAD-NJK-1

Order Lifting Stay and Denying Motion to Vacate Sentence under 28 U.S.C. § 2255

[ECF Nos. 33, 34]

Petitioner moves for habeas relief under 28 U.S.C. § 2255(a), arguing that the enhancement of his sentence under U.S. Sentencing Guidelines Manual §§ 4B1.2 and 2K2.1 violated his due-process right because the provision’s residual clause is void for vagueness.¹ I stayed this petition in anticipation of the United States Supreme Court’s decision in *Beckles v. United States*.² The *Beckles* decision, issued today, squarely defeats petitioner’s claim: the High Court held that “the advisory Sentencing Guidelines are not subject to a vagueness challenge under the Due Process Clause.”³

In light of *Beckles*, the **STAY IS LIFTED**, and petitioner's motion to vacate his sentence under 28 U.S.C. § 2255 [**ECF Nos. 33, 34**] is **DENIED**.

Dated March 6, 2017

Jennifer A. Dorsey
United States District Judge

¹ ECF Nos. 33, 34.

² ECF No. 35.

³ *Beckles v. United States*, Case No. 15-8544, 580 U.S. , slip op. at 10 (Mar. 6, 2017).